



HUMAN WRITES

Newsletter of the State Human Rights Committee



Spring 2012

State Human Rights Committee Members

Chairperson
Christina Delzingaro

Vice Chairperson
Randy Johnsey

Thomas "TC" C. Bullock Jr.

Penny Cameron

Carolyn M. DeVilbiss

Joseph Lynch LCSW, CSOTP

Donald H. Lyons

Jannie Robinson

Frank S. Royal Jr., MD

Inside this issue:

DOJ Agreement	1
March 6, 2012 Details	6
Meet The Advocate	2
Meet the LHRC Honoree	2
SHRC Honoree	3
SHRC Meeting Schedule 2012	4
LHRC Code Mandated Vacancies	5
SHRC-VCBR-RAC Meeting	7
Editor	
Joseph G. Lynch	
Randy Joshsey	

Welcome to the Spring 2012 edition of Human Writes, a newsletter from the State Human Rights Committee (SHRC). The purpose of this newsletter is to share ideas, problems, solutions and other items of mutual interest among the Local Human Rights Committees and the SHRC. Please submit your thoughts and ideas to:

Department of Behavioral Health and Developmental Services

Office of Human Rights
P. O. Box 1797
Richmond, VA 23218

SHRC.newsletter@co.dbhds.virginia.gov

[Visit the OHR web site at:](#)

<http://www.dbhds.virginia.gov/OHR-default.htm>

Commonwealth of Virginia and U.S. Department of Justice Settlement Agreement

January 27, 2012

(March 6 update see Page 6)

James W. Stewart, Commissioner of the Department of Behavioral Health and Developmental Services presented at the State Human Rights Committee on January 27, 2012 to give an update on the status of the Department of Justice agreement with the Commonwealth of Virginia.

Today, Governor McDonnell announced that the Commonwealth of Virginia has reached a settlement agreement with the U.S. Department of Justice (DOJ). DOJ began an investigation in 2008 that was expanded to cover Virginia's entire system of services for citizens with intellectual and developmental disabilities, including all five training centers and community services. In its February 2011 [findings letter](#),

DOJ concluded that Virginia is not providing services in the most integrated and appropriate setting, is not developing a sufficient quantity of community services, and has a flawed discharge process at training centers. Since the findings letter, Virginia has been negotiating with DOJ to achieve a settlement agreement that ensures quality services for our citizens with developmental disabilities and avoids an extremely costly and lengthy court battle that would utilize monies needed to serve our citizens through direct support and services.

The settlement agreement includes the creation of 4,170 new Medicaid Waiver slots for individuals transitioning from training centers to the community and for the planned growth in the number of Waiver slots for those on the waiting list. The agreement



James W. Stewart, III
Commissioner DBHDS

also expands accountability and oversight in the community. Also, the agreement calls for the creation of an individual and family support program for 1,000 families each year to ensure that families who are assisting family members with intellectual disability/developmental disabilities (ID/DD) or individuals who live independently have access to some supports to continue to live at home; full implementation will occur in FY2014.

In addition, and in accordance with Virginia's long-standing policy to transition to a community-based system of care, it is very important for you to know Virginia will provide a plan to cease residential operations at four of Virginia's training centers by 2020. (For more information on this topic see: <http://www.dbhds.virginia.gov/Settlement.htm>)



**Celebrate
with us the
new LHRC
Honoree of
the Quarter.**

MEET THE LHRC HONOREE OF THE QUARTER

**By:
Randy Johnsey**

Deidra Mathena

I can say from personal experience that this woman really cares about the job that she has found herself in. You see when I was Chair of the local committee where I started, Deidra was the Chair of the next closest committee to me. So I had an opportunity to have her come to meet the committee I was working with. We got a chance to talk a little, sharing stories about our experi-

ences in the system. Although our illnesses are different we found that we had had some of our past in the system to be the same, including, but not limited too, the stigma that comes with a diagnosis.

She started out becoming a RN in 1987. Living near a state facility, it seemed only natural for her to start working there. This turned out as a blessing in disguise, as she soon became a certified psychiatric nurse working with the adult population. This changed when she was diagnosed with Bi-Polar disorder thus ending her life as a nurse.

Several years later the Advocate for her former place of employment suggested she consider working with the LHRC. By her own admission she did not think that she would have much to offer the committee, however she wanted to see what they did, thinking that if they helped one person like her it would be a huge thing. Now almost eight years later after serving as both a member and a chairperson, she says that she has meet many people in all different walks of life that are trying to help the mentally ill in many ways.

MEET THE ADVOCATE OF THE QUARTER

By: Randy Johnsey

Nancy Neese

Nancy "Nan" is the last of the original advocates. She was appointed to the system and feels that it is her vocation. After taking a brief time to work with what is now known as VOPA (Virginia Office of Protection and Advocacy) she came back with the Human Rights system which soon hired two more Advocates to set up a regional system. This could not have happened at a better time as private business' were now asking to be licensed through the department.

Nan's region covers a rather large area that includes three state institutions(one ready to close) and a growing list of private providers.

Nan just got a new advocate on her team, of whom she is very proud. She has worked long and hard to get where she is today.

the state, Bachelor's - University of Tennessee- she will not say what year; years later, 1999 Master's - Virginia Tech.

HUMAN RIGHTS IN BRIEF: IT IS YOU RIGHT

- | | |
|---|--|
| ◆ TO BE TREATED WITH DIGNITY AND RESPECT | ◆ TO BE TOLD ABOUT YOUR TREATMENT |
| ◆ TO HAVE A SAY IN YOUR TREATMENT | ◆ TO SPEAK TO OTHERS IN PRIVATE |
| ◆ TO HAVE YOUR COMPLAINTS RESOLVED | ◆ TO SAY WHAT YOU PREFER |
| ◆ TO ASK QUESTIONS AND BE TOLD ABOUT YOUR RIGHTS | ◆ TO GET HELP WITH YOUR RIGHTS |

State Human Rights Committee Honoree's of The Quarter

Joe Lynch

Part 2

If you remember last quarter, I said a few words about Joe Lynch. This is part 2 of that article. As I started to say last time, Joe is a very well prepared member of the committee. If there is a question about what a presenter to the committee is saying he is one of two people that we can count on to bring it up and get an answer that is satisfactory. If the people(person) do(es) not provide us with the answers we need, Joe will ask to have them come back with the answer we need. I have seen him ask to form a sub-committee to address the SHRC's concern's.

Joe has come to the end of this six year term on the committee (June,30), and as busy as he stays I know that he will not be able to find the time to come back to it after his mandatory year off. No, Joe will keep busy helping people that need his expertise, and still remain humble. Please do not get me wrong, I am saying my goodbye for next quarter. But when you have someone that you work with gently guide you while still being firm you want to see them continue to reap the rewards that they deserve, and he will.

Christina Delzingaro

What can you say about a woman that stays so busy she tries but cannot return your phone call? No, she is not ducking my calls she is just that busy. She has been Chairperson now for two years and takes on more work all the time. Christina has given me the honor of being her vice-chair for both of her years as chairperson, and I cannot thank her enough. She is the other one that I was referring to in the above piece as one that the committee can count on to get answers to the tough questions that need to be asked. Her guidance both as Vice-Chair and Chairperson have made the time that I have been on the committee interesting to say the least. A new Chairperson will be chosen on April 20th and when I asked her if she would consider coming back to the committee after her year off is over she was very serious when she said NO!

More on Christina in part 2 of her story-

Human Writes tried a new look to the Newsletter this edition. Let us know what you think.

Announcement of SHRC Vacancies

Effective June 30th, 2012, there will be two vacancies on the State Human Rights Committee.

The SHRC Membership Committee will select finalists who meet the current membership requirements. The types of positions on the committee are consumers, family members, healthcare providers including sex offender treatment providers, and professionals. At this time, we are particularly interested in recruiting a consumer and a specialist in the field of sexually violent predators.

As part of its role in representing the diverse populations and cultures within the state of Virginia, the SHRC seeks to maintain a balance which includes diversity of age, background, race, gender, skills, experience, and geographic areas of the state. Current members remaining on the committee after July 1, 2012 are from Alexandria, Danville, Glade Spring, Great Falls, Hillsville, Richmond, South Hill. At this time the SHRC is interested in recruiting members residing in the Tidewater/Hampton Rhodes/Eastern Shore area and the Northwest area of Virginia (Front Royal/Harrisonburg/Staunton). The State Human Rights Committee meets about 8 times a year in various locations throughout the state. Members are responsible for getting themselves to meetings. Travel expenses will be paid by the department including mileage reimbursement and meals per diem as well as state-arranged lodging for any members who need to stay overnight on the evening before a meeting.

Applications can be submitted to:

State Human Rights Committee
c/o Kli Kinzie, Office of Human Rights
DBHDS
P.O. Box 1797
Richmond, VA 23218
Fax: 804-371-2308

Questions? Call the human rights office at 804-786-3988 or e-mail Kli.Kinzie@co.dbhds.virginia.gov

SHRC Meeting Schedule

The SHRC meeting schedule for 2012 was approved by the SRRC at the December 9, 2011 meeting. The SHRC meets at different regions of the state and at different facility and community based programs. Meetings are open to the public except for those portions of the meetings that are lawfully exempt under the Freedom of Information Act.

***The location for all of the SHRC meetings have not been established but may be found at the DBHDS web site at: <http://www.dbhds.virginia.gov/OHR-default.htm>

2012 SHRC Meeting Schedule Dates Approved 12/9/2011

Rev. 9 Jan 2012

Meeting Date	Agenda Deadline	Region	Location
January 27	January 10	Region 4 Petersburg / Central	DBHDS Central Office 1220 Bank Street Commissioner's Board Room (13 th floor) Richmond, VA 23219
March 9	February 21	Region 1 Staunton and Northwest	Western State Hospital 1301 Richmond Road Library, Jeffries Building Staunton, VA 24401
April 20	April 3	Region 6 Lynchburg/ Danville	***
June 8	May 22	Region 4 Petersburg / Central	***
July 6	June 19	Region 2 Northern Va	***
September 7	August 21	Region 3 Southwest	***
October 26	October 9	Region 5 Tidewater/ Hampton Rhodes	***
December 7	November 20	Region 6 South Central	***

YOUR HUMAN RIGHTS REGIONAL ADVOCATS ARE:

Region 1 Chuck Collins
540 332-8321

Region 2 Deb Lochart
703 323-2098

Region 3 Nan Neese
276 783 1219

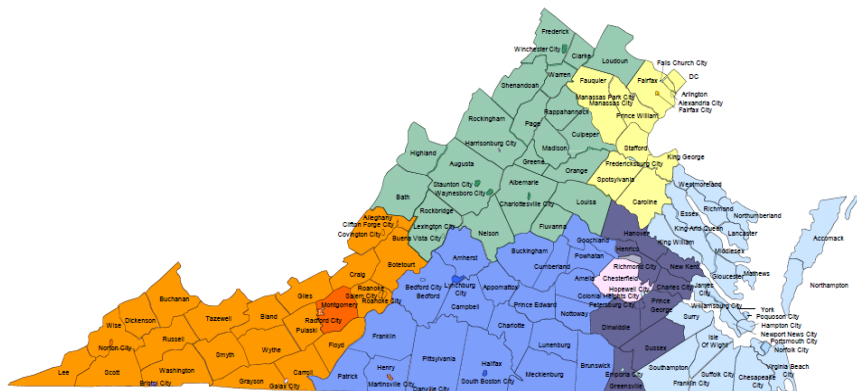
Region 4 Mike Curseen
804 524-7245

Region 5 Reggi Daye
757 253-7961

Region 6 Kevin Paluszak
434 947-6214



Office of Human Rights Regions
2011



LHRC Code Mandated members

The SHRC has been concerned about the number of vacancies on LHRC's of Code Mandated members. The Code of Virginia § 37.2-204 Appointments to state and local human rights committees, identifies the composition of the state and local human rights committees to include the following:

"...One-third of the appointments made to the state or local human rights committees shall be current or former consumers or family members of current or former consumers, with at least two consumers who are receiving or who have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services on each committee. In addition, at least one appointment to the state and each local human rights committee shall be a health care provider..." <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+37.2-204>

On the next page is a table showing the current status of LHRC vacancies of Code Mandated member positions. Currently there are 38 Code Mandated LHRC member vacancies.

LHRC CODE MANDATED MEMBER VACANCIES

R E G I O N #	# O F L H R C' S	C A P A C I T Y	NAME OF THE LHRC WITH CODE MANDATED MEMBER VACANCIES	AS OF JANUARY 18, 2012 CODE MANDATED MEMBER VACANCIES (Number of vacancies and date of vacancy)										T O T A L V A C A N C I E S
				CONSUMER MEMBER #1		CONSUMER MEMBER #2		FAMILY MEMBER		HEALTH CARE PROVIDER		TOTAL CODE MAND. VAC.	TOTAL NON-CODE MANDATED MEMBER VA- CANICES	
1	10	70	CCC&A	1	6/30/10	0	----	0	----	0	----			
TOTAL REGION 1												1	1	2
2	9	55	FREDERICHSBURG	1	6/30/11	0	----	0	----	0	----	1		
			NOVA HOSPITALS	1	3/1/11	0	----	0	----	0	----	1		
			PRINCE WILLIAM	1	1/31/11	0	----	0	----	0	----	1		
TOTAL REGION 2												3	0	3
3	8	58	CATAWBA	0	----	1	2009	0	----	0	----	1		
			ROANOKE	0	----	1	?	0	----	0	----	1		
TOTAL REGION 3												2	0	2
4	17	113	ANUE	0	----	1	6/30/11	0	----	0	----	1		
			CHESTER REGIONAL	1	?	1	?	0	----	0	----	2		
			COMMONWEALTH	0	----	1	?	0	----	0	----	1		
			HENRICO	1	?	1	?	0	----	0	----	2		
			METRO RICHMOND	0	----	0	----	0	----	1	?	1		
			METROPOLITAN	0	----	1	10/23/09	1	10/23/09	0	----	2		
			NEW CREATION	0	----	0	----	1	6/30/11	0	----	1		
			PETERSBURG REGIONAL	1	2/11/09	0	----	0	----	0	----	1		
			RICHMOND TRI-CITIES	0	----	1	6/30/09	0	----	0	----	1		
			RICHMOND UNIFIED	0	----	1	6/30/09	0	----	0	----	1		
			TUCKAHOE	1	?	1	6/30/07	0	----	0	----	2		
TOTAL REGION 4												15	3	18
5	26	142	ATLANTIC REGION	1	11/14/11	0	----	0	----	0	----	1		
			BAY REGIONAL	1	6/30/10	0	----	0	----	0	----	1		
			HAMPTON ROADS REGIONAL	0	----	0	----	0	----	1	9/9/11	1		
			JAMES CITY REGIONAL	1	10/31/11	0	----	0	----	0	----	1		
			MID-CITY	1	7/25/11	0	----	0	----	0	----	1		
			SOUTWEST VA TRAINING CENTER	1	10/1/09	0	----	0	----	0	----	1		
			SOUTHEAST ALLIANCE	1	?	0	----	0	----	0	----	1		
			VIRGINIA BEACH AREA	1	7/15/11	1	11/4/11	0	----	0	----	2		
TOTAL REGION 5												9	4	13
6	8	58	DANVILLE-PITTSYLVANIA	0	----	1	2/3/10	0	----	1	7/1/10	2		
			GOOCHLAND-POWHATAN CSB	1	7/1/09	0	----	0	----	0	----	1		
			HEARTLAND REGIONAL	1	7/20/10	0	----	0	----	0	----	1		
			PIEDMONT GERIATRIC HOSPITAL	1	11/1/11	0	----	1	6/30/11	0	----	2		
			SOUTHSIDE CSB	0	----	1	7/1/07	0	----	1	7/1/07	2		
TOTAL REGION 6												8	2	10
78 LHRC'S			498 POSITIONS POSSIBLE	16 LHRC CODE MANDATED MEMBER POSITIONS OVER 1 YEAR VACANT								38	10	48

Below are excerpts from the Court Order dated March 6, 2012.

UNITED STATES OF AMERICA,
Plaintiff
v.
COMMONWEALTH OF VIRGINIA,
Defendant.

Civil Action No. 3:12cv59-JAG

On the day suit was filed, the United States and the Commonwealth of Virginia submitted a joint agreement to this Court. The agreement settles the case. The parties have asked the Court to incorporate the settlement agreement into its final order....The Court has thoroughly reviewed the suit papers and settlement agreement. At heart, the purpose of this agreement is to allow disabled people to live in the community. The Court, however, is concerned that the agreement is being misconstrued by some. Most importantly, the agreement **does not** force the closing of any institution or Training Center in Virginia. Rather, the agreement requires the Governor of Virginia to submit to the General Assembly a plan to close four of the residential Training Centers. The General Assembly need not close the facilities, and, in fact, can easily pass legislation requiring the Executive Branch to keep the Training Centers open.... In short, this Court cannot close the Training Centers; it also cannot keep them open. The agreement is simply a plan or system for the Court to hold the state accountable on how it treats disabled citizens. For example, the agreement provides for an independent reviewer, who is an expert in the care of developmentally and intellectually disabled people, to submit public written reports to the Court every six (6) months. Under the agreement, the Court would use the reviewer's detailed reports and determine whether the Commonwealth is in compliance with the terms of the agreement...If a person or group has already sent a letter to the Court, it will be treated as a written comment and properly considered. The Court will consider these written comments in deciding if the agreement is adequate, fair, and reasonable, if the agreement is unlawful, or if it is against public policy. Generally, people who submit written comments or amicus briefs may not speak or argue at a hearing, because they are not parties to the case. But, if the Court receives a consolidated written comment from a large enough group of interested people, then it may allow a group representative to speak at a hearing prior to its final decision on the agreement

Written comments or more formal amicus briefs concerning the agreement may be submitted before **April 6, 2012** to:

The Honorable John A. Gibney Jr.
District Court Judge
United States District Court,
Eastern District of Virginia
Spottswood W. Robinson III and
Robert R. Merhige, Jr.,
Federal Courthouse
701 East Broad Street
Richmond, VA 23219

Accordingly, the Court ORDERS the following:

- (1) Interested people and groups shall have until April 6, 2012, to submit written comments or amicus curiae briefs to this Court regarding the proposed agreement;
- (2) The Joint Motion for Entry of Settlement Agreement (the "agreement") (Dk. No. 2) is PROVISIONALLY GRANTED, subject to final approval after the submission of comments and briefs to the Court;
- (3) The defendant shall make available and provide public notice of this Order by:
 - (1) maintaining it on the website of the Virginia Department of Behavioral Health and Developmental Services until at least April 6, 2012;
 - (2) transmitting it to parent groups associated with the Defendant's Training Centers, the Arc of Virginia, the Virginia Office for Protection and Advocacy, and the Virginia Association of Community Services Boards; and
 - (3) transmitting it to such other interested persons as the Court identifies to the defendant. The defendant shall certify that it has provided such notice; and
 - (4) The defendant will provide to the Court a list of all ICF/MRs and private facilities equipped to deal with profoundly disabled people within thirty (30) miles of the State Capitol.

A copy and descriptions of the agreement are available at:

<http://www.iustice.gov/va-ada>

<http://www.dbhds.virginia.gov/Settlement.htm>.

SHRC meets with VCBR RAC

By: Joseph G. Lynch LCSW,

The State Human Rights Committee (SHRC) met with the Virginia Center for Behavioral Rehabilitation (VCBR) Residents Advisory Committee (RAC) on December 9, 2011. The RAC had extended an invitation to the SHRC to meet with them to hear their overall experience with the Human Rights process at VCBR.

The twelve members of the VCBR RAC and the VCBR Human Rights Advocate, Tammy Long, met with the nine members of the SHRC at the VCBR facility. The RAC had prepared a letter outlining their questions about the Human Rights process at VCBR and there was a good exchange between the two groups.

The SHRC met for their regular meeting just a few hundred yards away from VCBR at the Piedmont Geriatric Facility and Chair Christine Delzingaro appointed an ad-hoc committee chaired by SHRC member Joseph Lynch to draft a response to the VCBR RAC.

VCBR is a unique program within the DBHDS system. Commissioner Stewart has approved the following exceptions to the Human Rights Regulations:

12 VAC 35-115-50
12 VAC 35-115-50 (C) (3) (a)
12 VAC 35-115-50 (C) (3) (b)
12 VAC 35-115-50 (C) (6)
12 VAC 35-115-50 (C) (7)
12 VAC 35-115-50 (C) (8)
12 VAC 35-115-90
12 VAC 35-115-90 (A) 1
12 VAC 35-115-90 (A) 2
12 VAC 35-115-90 (C)
12 VAC 35-115-90 (C) 2
12 VAC 35-115-100
12 VAC 35-115-100 (A)
12 VAC 35-115-100 (B)
12 VAC 35-115-100 (B) (3)
12 VAC 35-115-110
12 VAC 35-115-110 (C)

One of the other characteristics of VCBR is that it produces the highest number of Human Rights complaints of all of the facilities within the DBHDS system. For comparison see the table below.

The SHRC has approved the following variances to the Human Rights Regulations:

12 VAC 35-115-50 (D)(3)(e)(5)

12 VAC 35-115-60
12 VAC 35-115-60 (B)(1)(d)
12 VAC 35-115-140
12 VAC 35-115-140 (A)(2)
12 VAC 35-115-140 (A)(4)
12 VAC 35-115-150
12 VAC 35-115-170
12VAC35-115-180.
12VAC35-115-190.
12VAC35-115-200.
12VAC35-115-210.

The SHRC received a letter from the VCBR RAC at the January 27, 2012 SHRC meeting that expressed appreciation for the SHRC meeting with them.

At the January 27, 2012 meeting the SHRC approved the letter of response drafted by the ad-hoc committee to be sent to the VCBR RAC. Both groups expressed hope that there would be ongoing dialogue with each other about the Human Rights process.

01/01/11 TO 12/31/11			
FACILITY	NUMBER OF HUMAN RIGHTS COMPLAINTS	NUMBER OF ALLEGATIONS OF ABUSE	SUBSTANTIATED CASES OF ABUSE
Eastern State Hospital	633	74	12
Central State Hospital	136	125	17
Western State Hospital	333	14	11
Virginia Center for Behavioral Rehabilitation	1316	114	14

The number of Human Rights Complaints from VCBR is about 2 to 10 times higher than the other facilities. While the actual number of substantiated case of abuse is very similar. Hopefully as the VCBR RAC and the SHRC work to keep lines of communication open it might be possible to see the number of human rights complaints go down over time.